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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

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11 WILBUR-ELLIS COMPANY

12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

14 ROBERT ADAM KENNEDY, an individual, on
15 behalf of himself, and on behalf of all persons
16 similarly situated,

17 Plaintiff,

18 v.

19 NATURAL BALANCE PET FOODS, INC., a
20 California corporation; WILBUR-ELLIS
21 COMPANY, a California corporation; and
22 DOES 1 through 100, inclusive,

23 Defendants.

Case No. 07 CV 1 082

(H)

RBB

CLASS ACTION


APPENDIX OF STATE COURT FILE
PURSUANT TO 28 U.S.C. § 1446(a)

1 Pursuant to 28 U.S.C. § 1446(a), attached is an appendix containing the state court
2 pleadings, process, and orders.

3
4
5 June 13, 2007

Respectfully submitted,

HELLER EHRMAN LLP

7
8 By 

9 DAVID E. KLEINFELD

10 CHAD R. FULLER

11 BRITTANY L. LITTLE

12 Attorney for Defendant

13 WILBUR-ELLIS COMPANY

14 SD 878946 v1
(00385.0001)

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

NATURAL BALANCE PET FOODS, INC., a California corporation,
and WILBUR-ELLIS COMPANY, a California corporation; and DOES I
through 100, Inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ROBERT ADAM KENNEDY, an individual, on behalf of himself, and
on behalf of all persons similarly situated

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen este citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumple con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
330 West Broadway
San Diego, CA 92101

CASE NUMBER **07-2007-00066201-CU-BT-CTL**
(Número del Caso)

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Norman Blumenthal (Bar # 068687)

Phone No. (858) 551-1223

Blumenthal & Nordrehaug

Fax No. (858) 551-1232

2255 Calle Clara, La Jolla, CA 92037

R.S. Vela

DATE:

MAY 03 2007

Clerk, by _____

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **WILBUR-ELLIS COMPANY, a California corporation**

under: ☒ CCP 416.10 (corporation)

☐ CCP 416.60 (minor)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.70 (conservatee)

☐ CCP 416.40 (association or partnership)

☐ CCP 416.90 (authorized person)

☐ other (specify):

4. ☒ by personal delivery on (date):

(SEAL)

1 **BLUMENTHAL & NORDREHAUG**
2 Norman B. Blumenthal (State Bar #068687)
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9 Attorneys for Plaintiffs

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF SAN DIEGO**

12 **37-2007-00068201-CU-BT-CTL**

13 ROBERT ADAM KENNEDY, an individual,
14 on behalf of himself, and on behalf of all
15 persons similarly situated,

16 Plaintiff,

17 vs.

18 NATURAL BALANCE PET FOODS, INC.,
19 a California corporation; WILBUR-ELLIS
20 COMPANY, a California corporation; and
21 DOES 1 through 100, Inclusive,

22 Defendants.

CASE No. _____

23 **CLASS ACTION**

24 **COMPLAINT FOR:**

25 (1) VIOLATIONS OF THE CONSUMER
26 LEGAL REMEDIES ACT (CIVIL CODE
27 §1770, *et seq.*, and

28 (2) UNFAIR COMPETITION IN
VIOLATION OF CAL. BUS. & PROF.
CODE § 17200 *et seq.*,

DEMAND FOR A JURY TRIAL

1
COMPLAINT

NATURE OF THE ACTION

- Venison and Brown Rice Dry Dog Formula,**
- Venison and Brown Rice Canned Dog Food**
- Venison and Brown Rice Formula Dog Treats**
- Venison and Green Pea Dry Cat Formula**

2

Exhibit A Page 5

1 3. Central to the Defendants' marketing of certain of their products is the
2 representation and designation that such products were and are "Made in the USA." Defendants
3 package these products with the designation on the label or packaging, in capital and bold
4 lettering, that the products were "Made in the USA." Studies show that the "Made in the USA"
5 is a substantial factor in consumer purchasing decisions. Moreover, in the context of food
6 products, the designation that the products were "Made in the USA" becomes a central and
7 primary concern because of concerns about the health and safety of the pet and the differences in
8 health and safety procedures and regulations in foreign countries, especially China.

9 4. All of the pet food products under the brand name "Natural Balance" sold to
10 consumers in California and nationwide have substantially the same product label. On each
11 package of Natural Balance pet food, the label uniformly represents that the product was "Made
12 in the USA" in capital letters. True and correct exemplar copy of an Natural Balance pet food
13 label attached hereto as Exhibit #1, evidencing the uniform representations regarding geographic
14 origin of the product. All of the Natural Balance pet food sold contains identical or substantively
15 similar representations as to the geographic origin of the product being "Made in the USA."

16 5. At all relevant times, Natural Balance brand pet foods were not "Made in the
17 USA" as falsely advertised, but instead, were manufactured either in whole or in part, in China.
18 On or after April 17, 2007, as a result of the FDA investigation into these products,
19 DEFENDANTS disclosed for the first time that the Natural Balance brand pet food products
20 contained ingredients manufactured in China.

21 6. At all relevant times, Defendants NATURAL BALANCE PET FOODS, INC.
22 ("Natural Balance") and WILBUR-ELLIS COMPANY ("Wilbur-Ellis") are companies that each
23 participated in the manufacture and/or distribution of an Natural Balance brand pet food product
24 and were responsible in some part, for the false representation that the Natural Balance product
25 was "Made in the USA." Natural Balance and Wilbur-Ellis each participated in the packaging or
26 labeling of Natural Balance brand pet food products, each with the fraudulent representation of
27 geographic origin. Natural Balance and Wilbur-Ellis each knew or exercised conscious disregard
28 for the truth that Natural Balance brand pet food products were not "Made in the USA," but

1 instead, were manufactured either in whole or in part, in China. Despite this knowledge, they
2 nevertheless participated in the fraudulent labeling of Natural Balance pet food products as
3 "Made in the USA." Natural Balance and Wilbur-Ellis each knew that the fraudulent labeling of
4 Natural Balance brand pet food products as "Made in the USA" would be reasonably relied upon
5 by end consumers. Despite this knowledge, they nevertheless participated in fraudulent labeling
6 of Natural Balance brand pet food products, distributing Natural Balance products to retail stores
7 for the intended purpose of sales to the consumers in California and nationwide, without any
8 reasonable grounds to believe that the products were "Made in the USA."

9 7. At all relevant times, Defendant Wilbur-Ellis is the company responsible, whole
10 or in part, for importing the manufactured rice protein ingredient in Natural Balance brand pet
11 food products from China and supplying the same for use in the Natural Balance brand pet food
12 products. The Chinese product(s) imported by Wilbur-Ellis was actually used in the Natural
13 Balance brand pet food products. Although importing the manufactured rice protein ingredient
14 from China, Wilbur-Ellis nevertheless participated in the scheme and practice of marketing and
15 labeling the Natural Balance brand pet food products as "Made in the USA" and/or were
16 responsible for the mislabeling of the Natural Balance brand pet food products as "Made in the
17 USA."

18 8. Under the federal regulations established the Federal Trade Commission, for a
19 product to be called "Made in the USA," the product must be "all or virtually all" made in the
20 U.S." The term "United States," includes the 50 states, the District of Columbia, and the U.S.
21 territories and possessions. Under this standard, "All or virtually all" means that "all significant
22 parts and processing that go into the product must be of U.S. origin. That is, the product should
23 contain no — or negligible — foreign content." See Federal Trade Commission Statement
24 "Complying with the Made In the USA Standard."

25 9. The Natural Balance brand pet food products that were imported, manufactured
26 and sold by DEFENDANTS were comprised of components that were manufactured outside of
27 the United States, including but not limited to China. At all relevant times prior to April 17,
28 2007, DEFENDANTS failed to disclose and concealed the fact that Natural Balance brand pet

1 food products contained ingredients or components that were manufactured and/or made in
2 China and failed to exercise the necessary skill and care required to determine the accuracy of
3 this statement.

4 10. Contrary to DEFENDANTS' packaging of Natural Balance brand pet food
5 products, (a) the Natural Balance products contain certain components that have been entirely or
6 substantially made, manufactured or produced outside of the United States, and (b) not all, or
7 virtually all, of each Natural Balance product is "Made in the USA." Defendants have
8 fraudulently concealed the material facts at issue herein by failing to disclose to the general
9 public the true facts regarding the country of origin designation appearing on the Natural Balance
10 brand pet food products. The disclosure of this information was necessary in order to make the
11 Defendants' representations regarding product origin not misleading. Defendants possess
12 superior knowledge of the true facts, including knowledge that certain components were
13 imported under a "Made in China" designation, which were not disclosed and which were
14 necessary to discover the wrongful conduct, thereby tolling the running of any applicable statute
15 of limitation.

16 11. Consumers and users of these products are particularly vulnerable to these
17 deceptive and fraudulent practices. Defendants were in the exclusive possession of information
18 regarding the country of origin for Natural Balance brand pet food products. Most consumers
19 possess very limited knowledge of the likelihood that products claimed to be "Made in the USA"
20 are in fact made, in whole or in part, in foreign countries. This is a material factor in many
21 people's purchasing decisions, as they believe they are buying truly American products and
22 supporting American companies and American jobs. Consumers generally believe that "Made in
23 the USA" products are higher quality products than those of other countries. Unaware of the
24 falsity of the Defendants' country-of-origin claims, Plaintiff and the other members of the Class
25 were fraudulently induced to purchase Natural Balance brand pet food products under false
26 pretenses and at premium prices. State and federal laws are uniformly designed to protect
27 consumers from this type of false advertising and predatory conduct. Defendants' deception of
28 consumers is ongoing and will victimize consumers every day until it is altered by judicial

1 intervention.

2 12. The country-of-origin designation is especially important and material in the
3 context of food products because of the protections afforded by the Food and Drug
4 Administration, and local health agencies, over food products made in the United States. For
5 example, food products made in foreign countries can be grown or made using banned pesticides
6 and/or chemicals, which one would not expect to find in Made in the USA food products.
7 Consumers who purchase food products designated with the "Made in the USA" reasonably
8 believe that they are purchasing product which has been grown and made in accordance with
9 state and federal regulations. These same regulations are not present in foreign countries where
10 unsafe and deleterious chemicals may be used without regulatory oversight. This concern is
11 evidenced by the 2007 recall of many Natural Balance brand pet food products, which was
12 ordered because of the presence of chemicals which were illegal for use in food in the United
13 States. This would not have occurred if the products were in fact "Made in the USA" as
14 represented.

15
16 **THE PARTIES**

17 13. The Plaintiff ROBERT ADAM KENNEDY is, and at all time mentioned herein
18 was, a resident of San Diego County, California, who purchased Natural Balance brand pet food
19 products at a Petco retail store located in California during the Class Period. The Plaintiff
20 purchased Natural Balance brand pet food products as a consumer for the household purpose of
21 feeding the product to his beloved pet.

22 14. Defendant NATURAL BALANCE PET FOODS, INC. is and at all times
23 mentioned herein was, a corporation organized under the laws of California, authorized to
24 conduct business in California, and having a principal place of business in California. At all
25 relevant times, Natural Balance conducted and conducts substantial business in the State of
26 California and substantially availed and avails itself of the consumer pet food market in
27 California and the United States.

28 15. Defendant WILBUR-ELLIS COMPANY is and at all times mentioned herein

1 was, a corporation residing in and with a principal place of business in California. At all relevant
2 times, Wilbur-Ellis conducted and conducts substantial business in the State of California and
3 substantially availed and avails itself of the consumer pet food market in California and the
4 United States.

5 16. Plaintiffs are ignorant of the true names and capacities of the Defendants sued
6 herein as DOES 1 through 100, inclusive, and therefore sued these Defendants by fictitious
7 names. Plaintiffs will amend further this Class Action Complaint to allege the true names and
8 capacities of these Defendants if and when they are ascertained. Each of these Defendants, sued
9 by the fictitious DOE designation, was in some manner responsible for the acts, omissions,
10 misrepresentations, non-disclosures, deception, violation of statutes, furtherance of the scheme,
11 and other wrongdoing as alleged herein, all of which directly and proximately caused damage to
12 Plaintiffs. Plaintiffs are further informed and believe that said Defendants, some of them, each of
13 them and/or all or them were the knowing and willful participants in a scheme to promote,
14 market, sell, advertise, or otherwise benefit from the sale of mislabeled Natural Balance brand
15 pet food products.

16 17 JURISDICTION AND VENUE

18 17. This Court has jurisdiction over this action, and venue is proper in San Diego
19 County, California, because (1) the Plaintiff's purchases of Natural Balance brand pet food
20 products occurred in San Diego County, (2) the Plaintiff resides in San Diego County, (3) sale of
21 Natural Balance brand pet food products to members of the Class occurred in San Diego County,
22 (4) the Defendants reside in California, and (5) the deceptive trade practices that give rise to this
23 claim emanated from and occurred, in whole or in part, in California.

24 25 CLASS ALLEGATIONS

26 18. Plaintiffs bring this action pursuant to Section 382 of the California Code of Civil
27 Procedure and Section 1781 of the California Civil Code as a nationwide class action on their
28 own and on behalf of a class defined as:

1 ALL INDIVIDUALS IN THE UNITED STATES WHO PURCHASED ONE OR MORE
 2 NATURAL BALANCE BRAND PET FOOD PRODUCTS BETWEEN MAY 3, 2003
 AND APRIL 17, 2007

3 The Natural Balance Brand Pet Food Products which are the subject of this suit are the following
 4 specific products:

- 5 a. Venison and Brown Rice Dry Dog Formula,
- 6 b. Venison and Brown Rice Canned Dog Food
- 7 c. Venison and Brown Rice Formula Dog Treats
- 8 d. Venison and Green Pea Dry Cat Formula

9 Other Natural Balance brand pet food products may also have been similarly labeled as "Made in
 10 the USA" but contained components that were imported from outside of the United States.

11 Plaintiff will therefore amend to list any additional Natural Balance brand pet food products
 12 which were sold as "Made in the USA" but contained components that were imported from
 13 outside the United States as such additional Natural Balance brand pet food products are
 14 identified through discovery. Excluded from the Class are Defendants, any parent, subsidiary of
 15 affiliate of Defendants, and their officers, directors, and employees of Defendants, and any
 16 judicial officer who may preside over this cause of action.

17 19. The requirements for maintaining this action as a class action are satisfied in that:

- 18 a. It is impracticable to bring all members of the Class before the Court.

19 Plaintiff estimates that there are thousands of Class Members geographically spread throughout
 20 California and throughout the United States. Attempting to join and name each Class member as
 21 a co-plaintiff would be unreasonable and impracticable.

22 b. There are questions of law and fact common to the Class, which are
 23 identical for each member of the Class and which predominate over the questions affecting the
 24 individual Class members, if any. Among these common questions of law and fact are:

- 25 (i) Whether Defendants made deceptive representations or
 26 designations of geographic origin in connection with Natural
 27 Balance brand pet food products;

- (ii) Whether the representations or designations of geographic origin in connection with Natural Balance brand pet food products violated 15 U.S.C. §45a and/or Cal. Bus. & Prof. Code § 17533.7;
 - (iii) Whether Natural Balance brand pet food products were represented on the package labeling to have been "Made in the USA";
 - (iv) Whether all, or virtually all, of the Natural Balance brand pet food products were "Made in the USA";
 - (v) Whether Defendants concealed the true origin of Natural Balance brand pet food products and omitted the fact that Natural Balance brand pet food products contained components that were manufactured and made, in whole or in part, outside the United States;
 - (vi) Whether Defendants participated in the alleged mislabeling of Natural Balance brand pet food products as "Made in the USA";
 - (vii) Whether Defendants knew or should have known that Natural Balance brand pet food products contained components that were manufactured and made, in whole or in part, outside the United States;
 - (viii) Whether the members of the Class sustained damage as a result of the Defendants' conduct;
 - (ix) Whether the Defendants unfairly or unlawfully received and/or retained revenue acquired through the scheme alleged herein;
 - (x) Whether the Defendants engaged in a uniform corporate policy of marketing Natural Balance brand pet food products as "Made in the USA"; and/or,
 - (xi) Whether the applicable statute of limitations was tolled by virtue of Defendants concealment and non-disclosure of material facts;
- c. The claims of the representative Plaintiff are typical of the claims of the

1 Class in that the Plaintiff purchased Natural Balance brand pet food products between April 26,
2 2003 and April 17, 2007. The claims of both the named Plaintiff and the claims of all other
3 Class members result from Defendants' actions in marketing and/or labeling Natural Balance
4 brand pet food products as "Made in the USA" which were in fact made, manufactured or
5 produced with certain components made outside of the United States.

6 d. The claims of the representative Plaintiff will fairly and adequately protect
7 the interests of the Class. The Class interests are coincident with, and not antagonistic to, those
8 of the Plaintiff. Furthermore, Plaintiff have retained and are represented by experienced class
9 action counsel.

10 20. In this action, Plaintiff and the Class seek all relief authorized under California
11 law for which class-wide relief is available, disgorgement, restitution and reasonable attorneys'
12 fees and costs incurred in the prosecution of this action. The law of California is uniformly
13 applicable to all members of the Class because the Defendants reside in California and the
14 unlawful conduct emanated from California. Therefore, California has a strong interest in
15 preventing and providing relief for fraudulent and unlawful conduct emanating from California.
16 Further, there can be no manageability problems due to variations in state laws or choice of law
17 provisions, because the representations of "Made in the USA" were uniform and systematic and
18 the laws of the United States and of all 50 states prohibit and make unlawful the designation of
19 "Made in the USA" on a product that is not entirely made in the United States. Further, the
20 deceptive or false designation of geographic origin is actionable in all 50 states, and there are no
21 relevant variations in the law of the states which impact the claims asserted herein. The
22 performance of applicable choice of law or conflict of law analysis does not render the class
23 unmanageable, moreover, any manageability issue which may arise can be handled through the
24 use of a subclass.

25 21. A class action is superior to any other available methods for the fair and efficient
26 adjudication of this controversy. The amount of each individual claim is too small to warrant
27 individual litigation. Even if any group of class members itself could afford individual litigation,
28 such a multitude of individual litigation would be unduly burdensome to the courts in which the

1 individual litigation would proceed. The class action device is preferable to individual litigation
 2 because it provides the benefits of unitary adjudication, economies of scale, and comprehensive
 3 adjudication by a single court. Finally, class wide litigation will insure that wrong doers do not
 4 retain the ill-gotten gains acquired through their wrongful conduct.

5 22. A certified Class for injunctive relief is appropriate because Defendants have
 6 uniformly acted or refused to act on grounds generally applicable to the class, thereby making
 7 appropriate final injunctive relief with respect to the Class as a whole. Conjunctively, or
 8 alternatively, a class certified for restitution and/or damages is also appropriate. The common
 9 questions of law and fact predominate over individual questions because all injuries sustained by
 10 any member of the Class arise out of the singular conduct of the defendant in uniformly
 11 providing deceptive representations regarding the Natural Balance brand pet food products and
 12 selling such products to the Class through deceptive and unlawful representations regarding the
 13 geographic origin of the products.

14 15 **FIRST CAUSE OF ACTION**

16 **VIOLATION OF THE CONSUMER LEGAL REMEDIES ACT** 17 **(CIVIL CODE § 1770 *et seq.*)** 18 **(Against All Defendants)**

19 23. Plaintiff repeats, incorporates by reference and realleges the allegations contained
 20 in Paragraphs 1-22 above as if fully set forth herein.

21 24. Plaintiff brings this claim under California consumer fraud laws, particularly
 22 Civil Code § 1770, *et seq.*, on behalf of himself and the Class who purchased Natural Balance
 23 brand pet food products and who were thus uniformly subject to Defendants' above-described
 24 deceptive, unlawful and fraudulent conduct. The laws of every other state are identical to and/or
 25 substantively similar to California consumer fraud laws in that federal law and the laws of every
 26 state prohibit the use of deceptive representations regarding the geographic origin of products,
 27 and every state similarly authorizes an action by consumers for such conduct. In addition, the
 28 laws of the state of California can be properly applied to the conduct of the Defendants and to all
 claims arising therefrom.

1 25. The Natural Balance brand pet food products, as described above, were purchased
2 by the Plaintiff and by other consumers similarly situated primarily for personal, family, or
3 household purposes. Thousands of units of Natural Balance brand pet food products were sold in
4 the United States between April 26, 2003 and April 17, 2007.

5 26. The Defendants violated their statutory duty by working in concert and each
6 participating in an elaborate scheme wherein Defendants deliberately mislabeled products or
7 caused products to be mislabeled as to their geographic origin for the purpose of deceiving
8 consumers, increasing sales and reducing costs. Defendants also acted deceptively and unfairly
9 because all of the Natural Balance brand pet food products had the deceptive appearance of a
10 product that was "Made in the USA."

11 27. The Defendants violated their duty under the aforementioned statutes, including
12 but not limited to, Civil Code § 1770(a)(4), by, among other things, making false representations
13 and/or designations as to the geographic origin of the Natural Balance brand pet food products.
14 This conduct violates California law, and the law of every other state, all of which laws are
15 identical in prohibiting deceptive representations or designations of geographic origin in the
16 marketing and sales of goods.

17 28. The Defendants' actions as alleged herein were unfair and deceptive and
18 constituted the concealment, suppression and omission of material facts with the intent that
19 Plaintiffs and the Class would rely upon the false statement through the concealment,
20 suppression and omission of such material facts, all in violation of the applicable Consumer
21 Legal Remedies Act.

22 29. Each Natural Balance brand pet food product represented to the Plaintiff and
23 every other member of the Class, at the time of purchase, that the Natural Balance brand pet food
24 product was "Made in the USA" without qualification. Contrary to such representation, each
25 Natural Balance brand pet food product purchased by the Plaintiff and by every other member of
26 the Class uniformly contained component(s) that were made and/or manufactured outside of the
27 United States.

28 30. These representations were made by Defendants to Plaintiff and the Class in

1 prominent writing on the label of each Natural Balance brand pet food product purchased by the
 2 Plaintiff and by every other member of the Class, at the time of their respective purchases.
 3 Because the true facts concerning the use component(s) that were made and/or manufactured
 4 outside of the United States were concealed by Defendants and never disclosed until after April
 5 17, 2007, the true facts concerning the geographic origin of the products were not and could not
 6 have been known to Plaintiff or any other member of the Class.

7 31. When making the representations on the label that the products were "Made in
 8 the USA", the Defendants intended that the representations be relied upon by all consumers in
 9 making their purchase.

10 32. All other states have consumer fraud statutes which are substantially similar to the
 11 California Consumer Legal Remedies Act. To the extent that the California Consumer Legal
 12 Remedies Act may be found not to protect the residents of other states, the consumer fraud acts of
 13 the Defendants' forum state could be applied to all members of the Class.

14 33. Plaintiff was injured by the many violations of the Consumer Legal Remedies
 15 Act, and parallel sister state statutes, and Plaintiff has thereby been damaged in an amount to be
 16 proven at trial. As a direct and proximate result of the acts and practices alleged above, members
 17 of the Class who purchased the subject Natural Balance brand pet food products from
 18 Defendants, including the Plaintiff, lost monies in a sum currently unknown but subject to proof
 19 at the time of trial. This Court is empowered to, and should, order restitution to all persons from
 20 whom Defendants deceptively, unfairly and/or unlawfully took money in order to accomplish
 21 complete justice.

22 **SECOND CAUSE OF ACTION**

23 **FOR UNFAIR COMPETITION IN VIOLATION OF** 24 **BUSINESS & PROFESSIONS CODE §17200, *et seq.* and § 17500, *et seq.***

25 **(Against All Defendants)**

26 34. Plaintiff alleges and incorporates by reference each and every allegation contained
 27 in paragraphs 1 through 33 above, as if set forth at this point.
 28

1 35. California law defines unfair competition to include any "unfair," "unlawful," or
2 "fraudulent" business act or practice. California Business & Professions Code § 17200.
3 Unlawful business acts are those which are in violation of federal, state, county, or municipal
4 statutes or codes, as well as federal and state regulations.

5 36. The acts, practices, misrepresentations and omissions of Defendants violated
6 California Business & Professions Code § 17533.7, which makes it unlawful for any person to
7 sell in California products which contain the statement "Made in USA," "Made in America,"
8 "USA" or similar words when the merchandise or any part thereof has been substantially made,
9 manufactured or produced outside the United States. As alleged above, during the relevant time
10 period, the subject Natural Balance brand pet food products were unlawfully labeled "Made in
11 the USA." or the equivalent, because certain components of such products were substantially
12 made, manufactured or produced outside the United States. This conduct also violates federal
13 law, and in particular, 15 U.S.C. § 45a.

14 37. The acts, practices, misrepresentations and omissions of Defendants were
15 intended to result and did result in the sale of the subject Natural Balance brand pet food
16 products to the consuming public and violated and continue to violate the Consumers Legal
17 Remedies Act, California Civil Code § 1750, et seq., by violating at least Civil Code §
18 1770(a)(2), (3), (4), (5), (7), (9) and (16). Defendants have misrepresented the source of the
19 subject "Made in the USA" pet food products and have misrepresented the affiliation,
20 connection, and association of such "Made in the USA" pet food products with America.
21 Defendants have represented that the subject "Made in the USA" pet food products have the
22 characteristic of being made in America and the benefits of American-made products, which they
23 did not have. Defendants have represented that the subject "Made in the USA" Natural Balance
24 brand pet food products had the standard, quality, and grade of American-made products, which
25 they did not have. Defendants have advertised, marketed and/or labeled the subject "Made in the
26 USA" pet food products as made in America with the intent not to sell them as so advertised.

27 38. The acts, practices, misrepresentations and omissions of Defendants violated
28 California Business & Professions Code § 17500, et seq. because Defendants' conduct was

1 intended to, and did, induce the sale of misrepresented pet food products to the consuming
2 public. Defendants caused to be made, published, disseminated, circulated or placed before the
3 public, advertisements and/or packaging concerning the Natural Balance pet food products at
4 issue which contained U.S. origin statements which were untrue, deceptive, misleading, or
5 materially incomplete, which were known, or which by the exercise of reasonable care should
6 have been known, by Defendants to be untrue, deceptive, misleading, or materially incomplete,
7 as part of a plan or scheme with the intent, design or purpose not to sell such products as
8 advertised.

9 39. Defendants' actions constituted unfair business acts and practices by
10 misrepresenting the origin of the subject Natural Balance products containing certain components
11 not of U.S. origin, which was likely to mislead and did mislead the general public. Defendants
12 have unfairly taken advantage of American consumers' favorable reaction to products labeled
13 Made in America, given the desire of many American consumers to support fellow American
14 workers and job growth in the United States, and their ignorance of the fact that the Defendants
15 have mislabeled its products as made in America. The justification for selling the tools as being
16 "Made in the USA" absent the critical disclosures detailed above is outweighed by the gravity of
17 the harm the sale of such products could cause, particularly considering the alternatives available
18 to Defendants. Such conduct offends public policy and causes substantial injury to consumers.

19 40. Defendants maintained an unfair business advantage over its competitors who
20 would otherwise be forced to sell products made in the United States at much lower profit
21 margins, if not at a loss, in order to compete with Defendants in the marketplace.

22 41. Defendants' actions constitute fraudulent business acts and/or practices by
23 misrepresenting that the subject Natural Balance pet food products were entirely made in
24 America. Members of the public were likely to be misled, and have been misled, to believe the
25 subject tools and accessories advertised and/or labeled by Defendants as "Made in USA" were, in
26 fact, American made, when certain components of those products were actually purchased,
27 manufactured or developed in foreign countries, including China. Such business acts and
28 practices are fraudulent and likely to deceive consumers.

42. Plaintiff, as a representative of a class of persons with common or general interest, is entitled to bring an action to enjoin Defendants' wrongful practices and to obtain restitution for the monies acquired by Defendants through such wrongful practices. Plaintiff is authorized to bring such action on behalf of the class of people with common or general interest, pursuant to California Business & Professions Code § 17200, et. seq.

43. As a direct and proximate result of Defendants' unfair competition in violation of the California law, Plaintiff individually lost money, and the members of the public who have purchased the subject products have lost money in sums exceeding the jurisdictional minimum of this Court, to be proven at the time of trial. Plaintiff requests this Court order, as it is empowered to order, restitution to all persons from whom Defendants unfairly and/or unlawfully took money.

44. Defendants' unfair competition in violation of California law presents a continuing threat to members of the general public in that Defendants are continuing, and will continue, unless enjoined, to commit unlawful, unfair, and/or fraudulent business acts or practices. Plaintiff requests that this Court order, as it is empowered to order, a preliminary and/or permanent injunction against such acts and practices.

PRAYER

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and against Defendants as follows:

1. Certify this action as a class action;
2. Award damages and/or restitution in an amount to be proven at trial;
3. Order declaratory relief finding that Defendants have engaged in unlawful, unfair and/or deceptive business practices.
4. Order injunctive relief enjoining Defendants and their officers, directors, agents, distributors, servants, employees, attorneys, and all others in active concert or participation with Defendants, or any of them, jointly and severally, during the pendency of this action and permanently thereafter from falsely representing the origin of the products;

1 5. Award pre-judgment and post-judgment interest at the maximum rate allowed by law
2 and costs of suit;

3 6. Award Plaintiff attorneys' fees and all litigation expenses as allowable by law.
4 Alternatively, for all attorneys' fees and all litigation expenses to be awarded pursuant to the
5 substantial benefit doctrine or other authority requiring Defendants to pay Plaintiff's attorneys'
6 fees and litigation expenses. Alternatively, for attorneys' fees and other litigation expenses to be
7 paid under the common fund doctrine or any other provision of law; and

8 7. Award punitive damages in an amount to be proven at trial pursuant to Civil Code
9 §1780(a)(4) and/or Civil Code §3294;

10 8. Order such other and further relief as the Court may deem just and proper.

11
12 Dated: 5.2.07

BLUMENTHAL & NORDREHAUG

13
14 By: 

Norman B. Blumenthal, Esq.
Attorneys for Plaintiff

15
16 K:\DNB\B Kennedy v. Natural Balance\Complaint-Pet Food-02.wpd
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|--|--|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Norman Blumenthal (State Bar # 068687) Blumenthal & Nordrehaug 2255 Calle Clara, La Jolla, CA 92037 TELEPHONE NO: (858) 551-1223 FAX NO: (858) 551-1232 ATTORNEY FOR (Name) Robert Adam Kennedy, Plaintiff | | CM-010 FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Hall of Justice | | |
| CASE NAME: <div style="text-align: center;">Kennedy v. Natural Balance</div> | | |
| <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) </div> <div style="width: 45%;"> Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) </div> </div> | | |
| CASE NUMBER: <div style="text-align: center;">37-2007-00066201-CU-BT-CTL</div> | | JUDGE: DEPT.: |

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

| | | |
|---|--|--|
| Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (48) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (18) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) | Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|--|

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☒ Large number of witnesses
- b. ☒ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☒ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☒ Substantial amount of documentary evidence f. ☒ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **TWO (2)**
5. This case ☒ is ☐ is not a class action suit.
6. This case ☐ is ☒ is not a collections case under rule 3.740.
7. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 2, 2007

Norman Blumenthal

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

- NOTICE**
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
 - File this cover sheet in addition to any cover sheet required by local court rule.
 - If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
 - Unless this is a complex case, or a collections case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Page 1 of 2
 Cal. Rules of Court, rules 3.220, 3.400-3.403;
 Standards of Judicial Administration § 19
 www.courtinfo.ca.gov
 LexisNexis® Automated California Judicial Council Forms

| | |
|--|--|
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO | |
| STREET ADDRESS: 330 West Broadway | |
| MAILING ADDRESS: 330 West Broadway | |
| CITY AND ZIP CODE: San Diego, CA 92101 | |
| BRANCH NAME: Central | |
| TELEPHONE NUMBER: (619) 685-8028 | |
| PLAINTIFF(S) / PETITIONER(S): Robert Adam Kennedy | |
| DEFENDANT(S) / RESPONDENT(S): Natural Balance Pet Foods Inc et.al. | |
| KENNEDY VS. NATURAL BALANCE PET FOODS INC | |
| NOTICE OF CASE ASSIGNMENT | CASE NUMBER: 37-2007-00066201-CU-BT-CTL |

Judge: Joan M. Lewis

Department: C-65

COMPLAINT/PETITION FILED: 05/03/2007

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

| | | |
|--|--|--|
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827 BRANCH NAME: Central | | FOR COURT USE ONLY |
| PLAINTIFF(S): Robert Adam Kennedy | | |
| DEFENDANT(S): Natural Balance Pet Foods Inc et.al. | | |
| SHORT TITLE: KENNEDY VS. NATURAL BALANCE PET FOODS INC | | |
| STIPULATION TO ALTERNATIVE DISPUTE RESOLUTION PROCESS (CRC 201.9) | | CASE NUMBER: 37-2007-00066201-CU-BT-CTL |

Judge: Joan M. Lewis

Department: C-65

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution process. Selection of any of these options will not delay any case management time-lines.

- | | |
|---|---|
| <input type="checkbox"/> Court-Referred Mediation Program | <input type="checkbox"/> Court-Ordered Nonbinding Arbitration |
| <input type="checkbox"/> Private Neutral Evaluation | <input type="checkbox"/> Court-Ordered Binding Arbitration (Stipulated) |
| <input type="checkbox"/> Private Mini-Trial | <input type="checkbox"/> Private Reference to General Referee |
| <input type="checkbox"/> Private Summary Jury Trial | <input type="checkbox"/> Private Reference to Judge |
| <input type="checkbox"/> Private Settlement Conference with Private Neutral | <input type="checkbox"/> Private Binding Arbitration |
| <input type="checkbox"/> Other (specify): _____ | |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate: (mediation & arbitration only) _____

Date: _____

Date: _____

Name of Plaintiff _____

Name of Defendant _____

Signature _____

Signature _____

Name of Plaintiff's Attorney _____

Name of Defendant's Attorney _____

Signature _____

Signature _____

(Attach another sheet if additional names are necessary). It is the duty of the parties to notify the court of any settlement pursuant to California Rules of Court, Rule 225. Upon notification of the settlement the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court and all un-served, non-appearing or actions by names parties are dismissed.

IT IS SO ORDERED.

Dated: 05/03/2007

JUDGE OF THE SUPERIOR COURT

SDSC CV-350 (Rev 01-07)

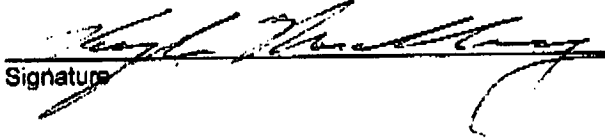
STIPULATION TO USE OF ALTERNATIVE DISPUTE RESOLUTION

Page: 1

| | | | |
|--|--|--|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address). Kyle Nordrehaug (State Bar # 205975) Blumenthal & Nordrehaug 2255 Calle Clara La Jolla, California 92037 TELEPHONE NO. (Optional) (858) 551-1223 FAX NO. (Optional) (858) 551-1232 E-MAIL ADDRESS (Optional): kyle@bamlawlj.com ATTORNEY FOR (Name): Robert Adam Kennedy, Plaintiff | | FOR COURT USE ONLY <div style="text-align: center;"> FILED Clerk of the Superior Court JUN - 1 2007 By: _____ Deputy: _____ </div> | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input checked="" type="checkbox"/> HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827 <input type="checkbox"/> NORTH COUNTY DIVISION, 326 S. MELROSE DR., VISTA, CA 92081-8643 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 <input type="checkbox"/> RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92065-5200 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5649 | | JUDGE: <u>Hon. Joan Lewis</u> DEPT: <u>65</u> CASE NUMBER <u>37-2007-00066201-CU-BT-CTL</u> | |
| PLAINTIFF(S) ROBERT ADAM KENNEDY, an individual, et al. | | | |
| DEFENDANT(S) NATURAL BALANCE PET FOODS, INC., et al. | | | |
| CERTIFICATE OF SERVICE (San Diego Superior Court Rules, Division II, Rule 2.5) | | | |

I certify under penalty of perjury under the laws of the State of California that all defendants named in the complaint of the above-entitled case have either made a general appearance or have been properly and timely served in compliance with San Diego Superior Court Rules, Division II, Rule 2.5.

Date: June 1, 2007


 Signature
Kyle Nordrehaug
 Typed or printed name

NOTES:

If service cannot be effected on all defendants within 60 days of filing the complaint, DO NOT USE THIS CERTIFICATE, but file the form CERTIFICATE OF PROGRESS (SDSC CIV-144) stating the reasons why service has not been effected on all parties and what is being done to effect service.

THE FILING OF A GENERAL APPEARANCE BY A DEFENDANT DOES NOT DISPENSE WITH THE PLAINTIFF'S OBLIGATION TO FILE THIS DOCUMENT.

Exhibit A Page 24

NORMAN B. BLUMENTHAL, ESQ. (SBN 068687)
BLUMENTHAL & NORDREHAUG,
2255 CALLE CLARA
LA JOLLA CA 92037
658-551-1223
Attorney for: PLAINTIFF

Ref. No. : 0244911-01
Atty. File No. : CA365

2007 MAY 24 PM 4:33

SUPERIOR COURT OF CA. COUNTY OF SAN DIEGO
SAN DIEGO JUDICIAL DISTRICT

CLERK SUPERIOR COURT
SAN DIEGO COUNTY, CA

⑨

PLAINTIFF : ROBERT ADAM KENNEDY, an individual
DEFENDANT : NATURAL BALANCE PET FOODS, INC.

Case No.: 37-2007-00068201-CU-BT-CTL
PROOF OF SERVICE

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS; COMPLAINT; CIVIL CASE COVER SHEET; NOTICE OF CASE ASSIGNMENT; STIPULATION TO USE OF ALTERNATIVE DISPUTE RESOLUTION PROCESS; NOTICE TO LITIGANTS/ ADR INFORMATION PACKAGE
3. a. Party served : NATURAL BALANCE PET FOODS, INC., a California corporation
AUTHORIZED AGENT FOR SERVICE: JOEY HERRICK
b. Person served : JOEY HERRICK, (AUTHORIZED AGENT FOR SERVICE)
4. Address where the party was served 12924 PIERCE STREET
PACOIMA, CA 91331 (Business)
5. I served the party
a. by personal service. I personally delivered the documents listed in Item 2 to the party or person authorized to receive service of process for the party (1) on May 16, 2007 (2) at: 12:50 PM
6. The "Notice to the person served" (on the summons) was completed as follows:
c. on behalf of: NATURAL BALANCE PET FOODS, INC., a California corporation
AUTHORIZED AGENT FOR SERVICE: JOEY HERRICK
under [xx] CCP 416.10 (corporation)
7. Person who served papers
a. JOSE SALAS
b. KNOX ATTORNEY SERVICE, INC.
2250 Fourth Avenue
San Diego, California 92101
c. 619-233-9700
d. Fee for service: \$82.50
e. I am:
(3) a registered California process server
(i) an employee
(ii) Registration No. 152
(iii) County: San Diego

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: May 18, 2007

Signature:

JOSE SALAS

PROOF OF SERVICE

Exhibit A Page 25

NORMAN B. BLUMENTHAL, ESQ. (SBN 068687)
BLUMENTHAL & NORDREHAUG,
2255 CALLE CLARA
LA JOLLA CA 92037
858-551-1223
Attorney for : PLAINTIFF

Ref. No. : 0244911-02
Atty. File No. : CA365

FILED
Clerk of the Superior Court

JUN - 1 2007

By _____ Deputy

SUPERIOR COURT OF CA. COUNTY OF SAN DIEGO
SAN DIEGO JUDICIAL DISTRICT

PLAINTIFF : ROBERT ADAM KENNEDY
DEFENDANT : NATURAL BALANCE PET FOODS, INC.

Case No.: 37-2007-00066201-CU-BT-CTL
PROOF OF SERVICE

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS; COMPLAINT; CIVIL CASE COVER SHEET; NOTICE OF CASE ASSIGNMENT; STIPULATION TO USE OF ALTERNATIVE DISPUTE RESOLUTION PROCESS; NOTICE TO LITIGANTS/ ADR INFORMATION PACKAGE
3. a. Party served : WILBUR-ELLIS COMPANY, a California corporation
AUTHORIZED AGENT FOR SERVICE: JAYE STEDMAN / NICOLE FARRAR
b. Person served : NICOLE FARRAR, LEGAL COUNSEL
(AUTHORIZED AGENT FOR SERVICE)
4. Address where the party was served 345 CALIFORNIA ST 27TH FLOOR
SAN FRANCISCO, CA 94104 (Business)
5. I served the party
a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on May 14, 2007 (2) at 10:12 AM
6. The "Notice to the person served" (on the summons) was completed as follows:
c. on behalf of: WILBUR-ELLIS COMPANY, a California corporation
AUTHORIZED AGENT FOR SERVICE: JAYE STEDMAN / NICOLE FARRAR
under [xx] CCP 416.10 (corporation)
7. Person who served papers
a. LON COOK
b. KNOX ATTORNEY SERVICE, INC.
2250 Fourth Avenue
San Diego, California 92101
c. 619-233-9700
d. Fee for service: \$82.05
e. I am:
(3) a registered California process server
(i) an employee
(ii) Registration No. 152
(iii) County: San Diego

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: May 21, 2007

Signature: _____

LON COOK

PROOF OF SERVICE

Jud. Coun. form, rule 982.9
JC Form POS 010 (Rev. January 1, 2007)

Exhibit A Page 26